



Appeal Decisions

Site Visit on the 30 March 2022

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 14th April 2022

Appeal A Ref: APP/C4615/C/22/3291412

Appeal B Ref: APP/C4615/C/22/3291408

118 Overend Road, Cradley B63 2SA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mrs Webb and Appeal B is made by Mr Webb against an enforcement notice issued by the Borough Council of Dudley.
 - The notice was issued on 20 December 2021.
 - The breach of planning control as alleged in the notice is : Without planning permission and within the last four years the construction of a building used as a shelter for ancillary car wash operations on the Land (shown hatched in black on the attached plan)
 - The requirements of the notice are to:
 - (i) To demolish and remove the building from the Land
 - (ii) To lawfully remove from the land any waste materials or rubbish generated from demolishing and removing the building from the Land.
 - The period for compliance with the requirement is six weeks.
- The appeals are proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 (the Act) as amended. Since appeals have been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decisions

1. The appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act as amended.

The appeal under ground (a) and the deemed planning application (DPA)

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal site is a car wash facility that was previously a petrol station. It is close to the junction of Overend Road and Banner Lane and there are car related businesses with commercial buildings both to the rear and to the south west side of the appeal site. Although there are brick buildings within the appeal site, they are on the opposite side to the development and are set back

from the road. The site therefore retains the largely open appearance of a petrol filling station with a canopy and an entrance and exit to the front.

4. The rectangular building, the subject of the notice, is side on to the road with a length of around 19 metres directly on the side boundary with the open sales frontage of the adjoining car business and is particularly visible when approaching the appeal site from the junction. The length of the appeal building means that it is very close to the rear boundary and is just behind railings to the front of the site that form a boundary with the pavement.
5. As the building is a car parking bay, it is largely open on one side to allow access for vehicles and was constructed of plywood panels of different sizes to the sides with a corrugated roof. The appellants have indicated that the development is unfinished although it is in use and the Council first received a complaint about it in February 2021. In November of 2021, prior to the service of the notice, the building retained that haphazard appearance with no cohesive design. The siting, design and materials result in an incongruous and dominant feature in an exposed location where buildings have a more permanent appearance, are set back from the road and complement their surroundings.
6. In their evidence, the appellants had proposed silver or grey cladding to complement surrounding buildings. At the time of my site visit, the building had been partially clad in white plastic panelling largely to the open side elevation and the front. However, adding different materials in itself would not overcome the harm that arises from the design and prominent location of the development. The front elevation which is in excess of 6 metres wide along the front boundary now has white panelling but still results in development which is out of keeping and incongruous as part of the street scene.
7. The appellants consider that the appeal building is an integral part of the car wash facility in providing for valeting and final finish of vehicles. However, there is no evidence before me as to why such a building has to be sited at this particularly prominent location within the appeal site. It is of course open to the appellants to have discussions with the Council about future appropriate development on site after compliance with the notice.
8. For the reasons given, I do find that the development does harm the character and appearance of the area. It is therefore contrary to Policy ENV2 of the Black Country Core Strategy (2011) which, amongst other things, refers to enhancing local character. It is also in conflict with Policy S6 of the Dudley Borough Development Strategy (2017) which supports appropriately designed sustainable development which is responsive to the character of the local area. It is also contrary to Paragraph 130 of the Framework which also refers to development being sympathetic to the local character.

Conclusion

9. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

E Griffin INSPECTOR